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IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Aydin Ucan

CASE: 031241 RESPONSE TO OFFICE

SER. NO.: 10/708,359 ACTION

FILING DATE: February 26, 2004

FOR: POSITION DETECTOR FOR
A MOVING PART IN A PIPE

COMMISSIONER
FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION OF:
A.U. 2862

EXAMINER:
Ledynh, Bot L.

Dear Sir:

If any charges or fees must be paid in connection with the following communication, they may be paid out of our Deposit Account No. 50-0545.

This is in response to the restriction requirement mailed May 19, 2005. Applicant traverses the restriction requirement in the Office Action for the foregoing reasons. Nevertheless, Applicant provisionally elects, with traverse, the embodiment as generally shown in Figure 1 because 37 C.F.R. 1.143 requires that such an election be made even though it is with traverse. Accordingly, Applicant provisionally elects claims 1-3, 8 and 9.

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In the restriction requirement, the present application was divided into two species corresponding to Figs. 1 and 4, respectively. However, Applicant respectfully asserts that the restriction requirement is not warranted because both the magnet geometries cited in claims 2 and 4 result in a magnetic field which has a strong radial component. This radial component of the magnetic field is detected by magnetic sensors arranged on the exterior surface of the pipe 10.

Applicants assert that both embodiments in accordance with figures 1 and 4 of the present application work in accordance with the sample principle.

Applicant asserts that working in accordance with a same principle does not necessarily mean that the claims are unpatentable over the same state of prior art. Instead, each claim must be separately judged in view of the state of the prior art and the result of this verification may be that both, one or none of the two claims are patentable.

Accordingly, Applicant respectfully asserts that the argument set forth at the bottom of page 2 of the Office Action, and the first line of page 3, is not valid. Thus, Applicants request that the restriction requirement be withdrawn.

Should the Examiner have any questions or concerns, the Examiner is requested to contact the undersigned at (312) 226-1818.



Dated: July 8, 2005

Respectfully submitted,

FACTOR & LAKE, LTD.



Micheal D. Lake
One of Applicant's Attorneys

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Patent Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 8, 2004.

Yolanda Solis

Name of Applicant, assignee, applicant's attorney or Registered Representative



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Signature